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09/872,418	05/31/2001	Laurence Lundblade	010201	2666
23696	7590	10/17/2005	EXAMINER	
Qualcomm, NC 5775 Morehouse Drive San Diego, CA 92121			TIEU, BINH KIEN	
			ART UNIT	PAPER NUMBER
			2643	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/872,418

Applicant(s)

LUNDBLADE ET AL.

Examiner

BINH K. TIEU

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 January 1953.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/01/2005 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 33, 38-43, 46 and 51-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Geiger et al. (U.S Pat. #: 6,775,536).

Regarding claim 33, Geiger et al. ("Geiger") teaches a method of processing application distribution, comprising the steps of:

receiving the application and traceability information associated with the application (i.e., receiving application from a developer station along with associated authentication, col.7, lines 37-49);

Art Unit: 2643

assigning a permission to the application (i.e., assigning a compact certificate, col.7, lines 49-65); and

transmitting the application, the permission and the traceability information to a device using a modification detection technique (col.8, lines 53-65).

Regarding claim 38, Geiger teaches a system for application distribution, comprising:
a central server (i.e., system entry proxy server) operable to receive the application and traceability information associated with the application (i.e., receiving application from a developer station along with associated authentication, col.7, lines 37-49), assign a permission to the application (i.e., assigning a compact certificate, col.7, lines 49-65), and transmit the application using a modification detection technique (col.8, lines 53-65); and

a network connected to the central server to receive the application (i.e., network as shown in figures 6 and 7, col.6, line 64 through col.7, line 65).

Regarding claim 39, note col.52-65.

Regarding claim 40, Geiger teaches a system for application distribution, comprising:
means for receiving the application and traceability information associated with the application (i.e., receiving application from a developer station along with associated authentication, col.7, lines 37-49),

means for certifying the application satisfies a predetermined criterion (col.7, lines 58-65 and col.9, lines 12-19);

means for assigning a permission to the application (i.e., assigning a compact certificate, col.7, lines 49-65); and

means for transmitting the application, the permission and the traceability information to a device using a modification detection technique (col.8, lines 53-65).

Regarding claim 41, Geiger teaches a computer-readable medium containing computer-executable instructions for distributing applications, comprising the steps of:

receiving the application and traceability information associated with the application (i.e., receiving application from a developer station along with associated authentication, col.7, lines 37-49),

certifying the application satisfies a predetermined criterion (col.7, lines 58-65 and col.9, lines 12-19);

assigning a permission to the application (i.e., assigning a compact certificate, col.7, lines 49-65); and

transmitting the application, the permission and the traceability information to a device using a modification detection technique (col.8, lines 53-65).

Regarding claim 42, Geiger teaches a method for executing an application on a wireless device, comprising the steps of:

storing a rule to evaluate permission (i.e., storing security constraints or policy rules, col.4, lines 25-37; col.8, lines 27-45 and col.9, lines 12-23);

receiving information comprising the application, the permission and traceability information associated with the application using a modification detection technique (i.e., receiving application from a developer station along with associated authentication, a compact certification col.7, lines 49-65, col.8, lines 53-65 and col.9, lines 12-19);

Art Unit: 2643

receiving a request to execute the application on the wireless device (i.e., receiving a request to execute the application from an execution environment, col.5, lines 32-38, wherein the execution environment operating on a wireless device, col.7, lines 21-27);

evaluating the received information to determine if the received information was modified (col.6, lines 28-39);

in the event the received information was not modified, evaluating the permission associated with the application (col.5, lines 41-47); and

in the event the permission is granted, executing the application (col.6, lines 44-52).

Regarding claim 43, note col.6, lines 19-26.

Regarding claim 46, the claim is rejected with the same reasons set forth in rejection of claim 42 above.

Regarding claim 51, Geiger teaches a wireless device for executing an application, comprising:

an input (i.e., transceiver of a wireless device) to receive an application and permission (i.e., receiving application and a compact or re-certification);

a rule contained in storage to evaluate the permission (i.e., security constraints);

a key contained in storage to evaluate a digital signature (i.e., attribute certificate);

wherein the wireless device is operable to execute the application upon evaluation of the permission, the digital signature and traceability information associated with the application (col.7, line 66 through col.8, line 65).

Regarding claims 52-53, the claims are rejected with the same reasons set forth in the rejections of claim 42 above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimball (U.S. Pat. #: 5,862,474) in view of Fette et al. (U.S. Pat. #: 6,052,600) and further in view of Rachabathuni et al. (U.S. Pat. #: 6,628,938) (***Kimball, Fette and Rachabathuni were cited in the previous Office Action***) and Geiger et al. (U.S. Pat. #: 6,775,536).

Regarding claim 1, Kimball teaches a programmable wireless device controlled by a telecommunication system including receiving an application and identification information which would read on an upgrade software and identification reads on MIN preference or SID; assigning a permission would include system preference, MIN preference, SID and transmitting the commands which would include the application software, permission and identification

Art Unit: 2643

information as part of a command code in (see col. 2 line 59-col. 3) to program a wireless device. Kimball fails to teach transmission using a modification detection technique and an application ID. Fette teaches a software programmable radio and method for configuring wherein a software distribution computer can download information using an application and identification information associated with a radio to be programmed, determining whether permission is granted for instance based on a network type, updates (see col. 2 lines 35-45, col. 4 lines 40-44, col. 6 lines 17-22). Fette teaches transmission of an application, permission and identification using an encryption technique or digital signatures which can be decipher based on stored logic and determining if the application would be compatible with the phone in (see figs. 2-4; col. 6 lines 58-col. 7 line 40). According to Fette based on (col. 9), obviously, a program, which fails to function properly, would not be enabled thus disabling the application or a user a user can remove programmable information in (see col. 9 lines 53-56). Fette teaches a server which can be used to determine what model phones would support a certain upgrade, compatibility with a network and so on in (see col. 4 lines 13-16).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Fette into that of Kimball thus making it possible to remote program a telephone thus saving a user time and being to verify the identification associated with programmable parameters and encode information such that it's not tampered with during the transmission process.

The combination fails to teach detecting an application with its ID.

Rachabathuni et al. teaches a wireless system which capability of upgrading or enhancing application features to a mobile phone in (see 83 of fig.8, col. 2 lines 48-53 and col. 7 lines 8-17). Rachabathuni et al. teaches ignoring an application for authentication reasons.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Rachabathuni et al. into that of the combination thus making it possible to reject and protect telephone terminals from bad information.

Finally, it should be noticed that Kimball, Fette and Rachabathuni, in combination, fails to clearly teach the feature of certifying the application satisfies a predetermined criterion, as argued by the Applicants in their remarks. However, Geiger et al. ("Geiger") teaches such feature in col.7, lines 58-65 and col.9, lines 12-19 for a purpose of preventing the application from improper execution on the device platform.

Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to incorporate the use of the feature of certifying the application satisfies a predetermined criterion, as argued by the Applicants in their remarks, as taught by Geiger, into view of Kimball, Fette and Rachabathuni in order to prevent the application from improper execution on the device software platform.

Regarding claims 2-3, the combination including Fette teaches being able to process receipt of application and deny the application the right to configure in (see col. 9 of Fette).

The combination teaches verification of download data identity or digital signatures but fails to teach receiving application ID and authenticating such information

Art Unit: 2643

when downloading or receiving information.

7. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimball (US Pat. #: 5,862,474) in view of Fette et al. (US Pat. #: 6,052,600), Rachabathuni et al., and Geiger et al. (U.S. Pat. #: 6,775,536) as applied to claim 1 above, and further in view of Moore (U.S. Pat. #: 6,259,791) or Osborn (US Pat. #: 6,026,293) (*Moore and Osborn were also cited in previous Office Action*).

Regarding claims 4-7, the combination teaches the claimed subject matter in (see Fette) but for the sake of argument, Osborn teaches a system for preventing electronic memory tampering wherein an authentication code, digital signatures and so forth can be used in determining whether a memory is to be programmed by a data transfer device (see col. 6 lines 46-col. 7 line 3, col. 10, col. 12 lines 14-25).

Moore teaches a method and apparatus in a wireless messaging system for controlling a hierarchical provision of services in (see figs. 2, 3 and 5) where encryption and decryption can be used when transmitting commands in addition to other identifiers, reprogramming commands and the ability to delete information in (see disclosure).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of the secondary references either Moore or Osborn into that of the combination to reinforce the ability to enhance security of transmitted data message from tampering and to make a determination whether a received data should be accepted or not.

Art Unit: 2643

8. Claims 1-13, 16 and 24-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fette et al. (US Pat. #: 6,052,600) in view of Rachabathuni et al. (US Pat. #: 6,628,938) and Geiger et al. (U.S. Pat. #: 6,775,536).

Regarding claims 1, 8, 30, and 40-42, Fette teaches a method for distributing and processing an application comprising of receiving an application, certifying that the application satisfies a predetermined criterion which could include compatibility issues, assigning a permission could be grant of license and transmitting the application, device ID, encryption or digital signature and so on to the device wherein a comparison is made to make a determination whether to process the information in (see disclosure).

Fette fails to teach general identification information associated with an application command.

Rachabathuni teaches a wireless system which capability of upgrading or enhancing application features to a mobile phone in (see 83 of fig.8, col. 2 lines 48-53 and col. 7 lines 8-17). Rachabathuni teaches ignoring an application for authentication reasons.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Rachabathuni et al. into that of Fette thus making it possible to reject and protect telephone terminals from bad information or tampering.

It should be also noticed that Fette and Rachabathuni, in combination, fails to clearly teach the feature of certifying the application satisfies a predetermined criterion and “traceability information” associated with the application, as argued by the Applicants in their remarks.

However, Geiger teaches such feature in col.7, lines 42-65 and col.9, lines 1-19 for a purpose of preventing the application from improper execution on the device platform.

Art Unit: 2643

Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to incorporate the use of the feature of certifying the application satisfies a predetermined criterion, as argued by the Applicants in their remarks, as taught by Geiger, into view of Fette and Rachabathuni in order to prevent the application from improper execution on the device software platform.

Regarding claims 9-13 and 34-37, the combination renders the claimed subject matter obvious.

Regarding claim 16, see the explanation as set forth regarding claim 1 in addition to the fact an unrecognized command will not be enabled which according to the applicant will be equivalent to removing the application from the device.

Regarding claims 24 and 38, see the explanation as set forth regarding to claim 1 in addition to the figures of Fette.

Regarding claim 25-28, 31-32, 39 and 43-45, the combination teaches certification of application commands from an application source, encryption techniques and so forth.

Regarding claim 29, the combination teaches the claimed subject matter because the claimed means would perform the method steps.

Regarding claim 33, see the explanation as set forth regarding claim 1.

Regarding claim 46, the combination teaches decryption of encrypted data and the possibility of disabling an application code for compatibility issues or if it fails to function properly.

Regarding claims 47-50, see the explanation as set forth regarding claim 51. Note that a grant license and encryption codes would be analyzed when granting access to an application

Art Unit: 2643

Regarding claim 51, see the explanation as set forth regarding claim 1. The combination including Fette teaches the claimed subject matter in (see figs.)

Regarding claims 52-53, the combination including Fette teaches being able to process information whether it's encrypted (Fette).

9. Claims 14, 15 and 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fette et al. (US Pat. #: 6,052,600) in view of Rachabathuni et al. (US Pat. #: 6,628,938) and Geiger et al. (U.S. Pat. #: 6,775,536) as applied to claims 8 and 12 above, and further in view of Grob et al. (US Pat. #: 5,737,708).

Regarding claim 14-15 and 17-23, the combination teaches not enabling a failed application and Grob teaches a method for handling unrecognizable command in a wireless environment wherein sometime unrecognized commands would not be processed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Grob into that of the combination thus not processing unrecognized commands if the device has been instructed not to process them to avoid tampering.

Response to Arguments

10. Applicant's arguments with respect to claims 1-53 have been considered but are moot in view of the new ground(s) of rejection.

In response to the Applicants' argument stated on page 13 under "Remarks" in the Amendment filed 07/01/2005 wherein the Applicants argued that the cited references" Kimball

Art Unit: 2643

and Fette, in combination, fails to clearly teach the Certifying Step recited in claims. However, new cited reference, Geiger et al., teaches such feature in col.7, lines 58-65 and col.9, lines 12-19 (see page 8 above).

In response to the Applicants' argument stated on page 14 wherein the Applicants argued that the cited references" Kimball, Fette and Rachabathuni, in combination, fails to clearly teach the "Traceability Information" as recited in claims. However, Geiger teaches an associated authentication or digital certification associated a developer means such as the "Traceability Information" with in col.7, lines 42-54 (see page 10 above).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Although the Chang (US. Pat. #: 5,724,425) and Voas et al. (US. Pat. #: 6,862,696) are not applied into this Office Action, they are also called to Applicants attention. They may be used in future Office Action(s). Both these references are also concerned with "Certifying Step" and "Traceability Information".

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh K. Tieu whose telephone number is (571) 272-7510 and E-mail address: BINH.TIEU@USPTO.GOV.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (571) 272-7499 and **IF PAPER HAS BEEN**

Art Unit: 2643

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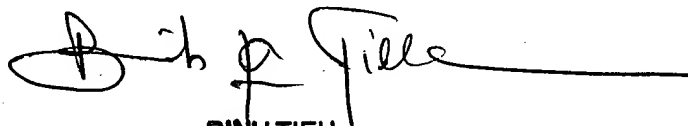
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BINH TIEU
PRIMARY EXAMINER

Art Unit 2643

Date: October 2005